

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY**

Writ Petition No.2666 of 1993

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Between:

Indian Express Newspapers (Bombay) Ltd.,
Bombay, represented by its Local Principal
Officer, Mr. H.R.S. Manian at Domalaguda,
Hyderabad.

... Petitioner

and

State of Andhra Pradesh, represented
by Chief Secretary, Government of Andhra
Pradesh, Saifabad, Hyderabad and others.

... Respondents

:ORDER:

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Counsel for the petitioner : Sri N. Chandradharrao.

Counsel for respondents 1, 4 & 5 : Government Pleader for
Revenue.

Counsel for respondent No.2 & 3 : Ramarao Ghanta

Counsel for respondent No.6 : Sri P. Yadagirirao.

28th August, 2006

Per G.S. Singhvi, C.J.

This petition has been listed for re-hearing in pursuance of order passed in W.P.M.P.No.28401 of 1998 whereby, order dated 3.7.1997 passed by Division Bench allowing the writ petition filed by the petitioner was recalled.

The petitioner claims to be the owner of property bearing Municipal Numbers 1-2-528 to 1-2-591 situated at Tank Bund Road, Domalguda, Hyderabad. Earlier, the property belonged to Mohd. Yakub and his wife. At the time of independence of the country, they migrated to Pakistan. The custodian of evacuee property, Hyderabad is said to have allotted the property to M/s.J.B. Mangaram and Company with the condition that the same shall not be assigned, sub-let or transferred without obtaining prior permission from the competent authority. In 1957-58, the property was auctioned under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. Sri Devi Dayal Marwah and others gave highest bid at the auction and the sale was confirmed in their favour on 14-2-1958. The petitioner purchased the property from Devi Dayal Marwah and others vide registered sale-deed dated 3-10-1964. Suit filed by the petitioner for eviction of M/s.J.B.Mangaram and Company, which was registered as O.S.No.30 of 1965, was decreed by Additional Chief Judge, City Civil Court, Hyderabad. C.C.C.A.No.47 of 1974 filed by M/s.J.B. Mangaram and Company was disposed of by the High Court in terms of the

compromise dated 12-3-1976. As a result of this, major portion of the property came to be occupied by the petitioner and a small portion was occupied by M/s.J.B. Mangaram and Company as tenant. In 1978, the petitioner filed eviction case against M/s.J.B. Mangaram and Company, which was registered as R.C.No.568 of 1978. Rent Controller, Hyderabad decreed the same on 13-9-1979 and appeal and revision filed by M/s.J.B. Mangaram and Company were dismissed by the appellate Court and this Court respectively. In the meanwhile, 54 persons filed I.A.No.280 of 1979 in R.C.No.568 of 1978 claiming to be the occupants in a portion of the property. That application was dismissed by Rent Controller, Hyderabad on 13-9-1979. After sometime, the so-called occupants filed O.S.No.1062 of 1980. They also applied for interim injunction. At one stage, VIII Assistant Judge, City Civil Court, Hyderabad passed an order of injunction, but the suit was finally dismissed on 21-8-1987 with an observation that in the guise of eviction orders obtained in rent control proceedings against M/s.J.B. Mangaram and Company, the petitioner cannot evict the plaintiffs. The appeal preferred by the petitioner was dismissed and revision filed against the order of Additional Chief Judge (T), City Civil Court, Hyderabad is pending before the High Court.

During the pendency of the proceedings instituted by the alleged occupants of the property in question, Municipal Corporation, Hyderabad filed O.S.No.407 of 1994 against the petitioner for recovery of Rs.44,251-13 ps. towards arrears of house-tax for the period from 1958-1964. That suit was dismissed on 24-7-1978. The petitioner is also said to be paying non-agricultural land assessment tax.

The grievance of the petitioner is that by ignoring the maze of litigation, Commissioner, Municipal Corporation, Hyderabad, in the

purported exercise of his power under Section 3 (1) of the Andhra Pradesh Slum Improvement (Acquisition of Lands) Act, 1956 (for short, 'the Act') declared the area in question as slum and, vide notification dated 2-4-1992 issued under Section 3 (2), the same is sought to be acquired for the purpose of improvement.

By an order dated 3-7-1997, the Division Bench allowed the writ petition and quashed both the notifications on the ground of violation of the rules of natural justice. However, on a review petition filed by the Municipal Corporation, order dated 3-7-1997 was recalled.

We have heard learned counsel for the parties and perused the record. In our opinion, it is not necessary to decide the writ petition by recording a detailed order because there is no dispute between the parties that before issuing notification under Section 3(2) of the Act, Commissioner, Municipal Corporation, Hyderabad did not give action oriented notice to the petitioner so as to enable it to file objections against the proposed acquisition of land. Thus, there is no escape from the conclusion that notification dated 2-4-1992 is not only ultra vires to Section 3 (2) of the Act, but is also vitiated due to violation of the rules of natural justice and is liable to be quashed.

Sri Ghanta Ramarao, learned standing counsel for Municipal Corporation of Hyderabad says that after decision of the writ petition in the earlier round, the petitioner had filed objections but the same could not be decided on account of the pendency of review petition and subsequent recalling of order dated 3.7.1997.

In view of the above, the Writ Petition is allowed. Notification dated 2.4.1992 issued under Section 3(2) of the Act is quashed. The competent authority shall now consider the objections filed by the petitioner and pass appropriate order within four weeks after giving opportunity of hearing to the representative of the petitioner and other

interested persons. It is expected that the competent authority will pass a reasoned order and communicate the same to all the affected persons at the end of four weeks period. By way of abundant caution, we make it clear that the period of four weeks shall commence from the date of receipt of certified copy of this order by the competent authority, who, according to Sri Ghanta Ramarao, is the District Collector, Hyderabad.

Registrar (Judicial) is directed to communicate copy of this order to District Collector, Hyderabad for facilitating compliance of the direction given by the Court.

G.S. SINGHVI, CJ

28th August, 2006

G.V. SEETHAPATHY, J

vtr